

**Jury Committee
Judicial Conference of Indiana**

January 10, 2003
Minutes

1. Members present. The following members of the committee were present: Craig Bobay, Sheila Carlisle, Earl Penrod, Mark McIntosh, John Pera, Brent Dickson, Jeffrey Heffelfinger, William Hughes, and Ernest Yelton, Chair
2. Staff present. Michelle C. Goodman and Tom Carusillo provided the committee with staff assistance.
3. Approval of minutes. The committee approved the minutes from the November 15, 2002 meeting.
4. Grant Application Update. Michelle reported that the application for the Byrne Grant was approved on December 6, 2002 in the full amount of \$65,612.00. Judge Yelton thanked Michelle and the Indiana Judicial Center Staff for their work in preparing the grant application.
5. Orientation Sub-Committee Report. Judge Hughes reported that the sub-committee is not ready to make a recommendation concerning an orientation video at this time. The sub-committee will be reviewing the video proposals received during the next sub-committee meeting. Judge Hughes reported that he had received feedback from other judges that the current orientation videos are too long and the judges would like something that is quick and easy. Also, concerns have been raised about the appropriateness of the unedited version of the AJS video in criminal trials. Judge Hughes asked that any other feedback on the orientation videos be passed to the sub-committee.

Judge Hughes also reported that there have already been some questions concerning the Orientation Program Minimum Standards. The sub-committee will address future questions concerning the Orientation Program Minimum Standards. Judge Hughes recommended holding off on any revisions at the present time.

Justice Dickson made a suggestion to include more members on this sub-committee. Judge Yelton suggested asking for volunteers at the end of the meeting to join this sub-committee. Judge Hughes also suggested including input on orientation from jury administrators. Judge Hughes was asked to draft an email to judges regarding including jury administrators on the sub-committee. Michelle indicated that the jury administrators have been working to form an association and that could be a resource for volunteers.
6. Rule 2 Sub-Committee Report. Judge Pera reported that NIPSCO, IPL, and VECTREN are willing to provide customer lists to supplement the jury pools and Verizon requires payment for customer information. Judge Pera also indicated that the sub-committee is still trying to obtain information from Ameritech and Cinergy. The BMV list is working well. There has not been any update on the status of the Department of Revenue to date.

Judge Yelton reported that he had received a call from Justice Sullivan regarding the jury pool list and the role JTAC in this process. Judge Yelton also received an email from Kurt Snyder yesterday offering to assign the jury pool issue to a JTAC staff person and a group of graduate students who will be working with JTAC this semester to explore integrating jury lists and jury management programs. Judge Pera agreed that jury management software should be included. It was suggested to include jury administrators for input in this area. Judge Yelton asked Mag. Bobay to lead the exploration of software issues and Judge Pera to continue to oversee the jury pool information.

Judge Pera indicated that the BMV list is a great list in terms of creating a more diverse jury pool. Judge Hughes indicated that a big problem with the BMV list is that people do not regularly change their address as they do with other lists. An idea was suggested to explore a list containing statewide information and keeping utilities separate.

The committee decided to accept the offer presented by JTAC to work on this project by consensus.

7. Preliminary Instructions. Judge Yelton reported that Judge Kellam had prepared a draft preliminary instruction regarding juror questions, which Judge Yelton forwarded to Judge Magnus-Stinson and Judge Horn for their consideration. Judge Magnus-Stinson responded in sending Instruction 1.22 and Judge Horn also responded with an additional draft. The committee discussed the three drafts and the options available at this point. The committee decided to cease further discussion on this issue and leave the content of the preliminary instruction up to the Civil and Criminal Instruction Committees.
8. Qualification, Exemption, and Deferral form. Judge Yelton raised a point of concern that this form has been confusing potential jurors, particularly when the questions are frame in the negative. After discussion by the committee, the sub-committee was asked to revise this form.
9. Draft Rule Amendments. Judge Yelton reported that the committee's proposed amendments to Rules 1 and 26 have been submitted to the Supreme Court.

The committee then discussed amending Rule 7 regarding deferrals to address permitting jury administrators to authorize deferrals. After discussing the different court policies relating to this issue, the committee still believed that the judge need to be ultimately responsible for the composition of the jury pool. The committee also discussed whether deferrals had to be completed with an order and concluded that the language of Rules 7 and 8 together seemed to indicate an order was necessary. Based on these discussions, the committee decided to propose amending Rule 7 by using the first option presented with the following changes: replace "jury administrator" with "judge's designee", and replace "approve" with "authorize". The committee also decided to propose amending Rule 8 by replacing "granted" with "authorized". Michelle was asked to revise this proposal accordingly.
10. Other Business. The committee discussed issues involving a juror's term of service under Rule 9. Specifically, the committee addressed the issue of juror's who were not

selected but would still like to serve on a jury and whether prospective jurors could be recalled if they never participated in jury selection. The committee discussed the impact of these issues on the “one day one trial” aspect of the rules. The committee also discussed various positions on when a term of service is completed. Suggestions were made that the term of service could be changed to state that a term of service is completed upon serving as a juror on a trial and allow then an exemption for those who were not selected that do not wish to serve again. The committee stated that it is ambiguously possible to recall jurors if they have appeared, but have not participated in jury selection. Michelle was asked by the committee to contact unified courts to see how they are handling term of service. The committee also requested Michelle to draft a proposed amendment to Rule 9 removing the phrase “when jury selection is complete” and insert “when released by the judge from the summons” and to define the term of service is complete when a juror serves on a trial and prospective jurors who are not selected may claim an exemption if they are recalled. Also, note the issues involving unified courts using one jury pool and sending jurors to other courts if they are not selected.

The committee also addressed whether instructions to the jury could be displayed by visual aids instead of providing each juror with an individual copy while the court reads the instructions. The committee discussed the need to still send some copies of the final instructions with the jury for deliberations. The committee discussed whether the intent of these rules is for each juror to have an individual written copy of the instructions or would using visual aids satisfy the intent of these rules by making the instructions available to jurors while being read by the court. The committee determined that the rule was not ambiguous and this language precludes using technology and visual aids in place of written copies. The committee requested Michelle to outline this issue for presentation to the Supreme Court.

The committee also discussed how to reconcile Rules 8 and 10 concerning the reason for deferrals and confidentiality. The committee discussed the distinction between granting a deferral via an order and approving the deferral with a signature and whether the deferral information would be considered confidential. The committee also discussed the possible effect on confidentiality of information by noting that certain jurors were deferred on the record without disclosing the reason. The committee felt that this action would not make the deferral information public. The committee decided that information received under Rule 8 that was not given in open court would be confidential, other than for the use of the parties and counsel.

The committee reviewed and discussed numerous questions that have been received and reached agreed answers by consensus. The committee also agreed to hold a few questions until the next meeting for further discussion. The committee asked that the questions and agreed upon answers be sent via email to the committee for a final review prior to posting them on the web page.

The committee also discussed the scope of Rule 14. The committee asked Michelle to check with the Criminal and Civil Benchbook Committees to see if they are addressing Rule 14.

Judge Yelton also raised an issue for the committee to consider until the next meeting concerning requiring all prospective jurors to return a qualification form when the court may only be interested in disqualifications. Committee members briefly

mentioned that some use questionnaires to fulfill this purpose and if the court does not receive anything back from a prospective juror then the court does not know if the person is really at that address.

A member of the committee inquired as to a clear method to document when summons are sent for a trial. One suggestion was on the CCS. There is still an issue about how to document this information when a prospective juror could not be contacted by phone.

Michelle informed the committee that she had received some materials relating to juries from Lake County. Michelle also mentioned that she plans on attending the Ohio Jury Management Association Conference on Friday, April 11, 2003 in Columbus, OH. If anyone is interested in attending, please contact Michelle.

11. Next Meeting. The next meeting is scheduled for Friday, March 7, 2003 at 11:00 a.m. at the Judicial Center.

Respectfully Submitted,

Michelle C. Goodman